

CHAPTER 11

PUBLIC OUTREACH

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**CHAPTER 11
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CHAPTER 11

PUBLIC OUTREACH

11.1 INTRODUCTION

SEA has conducted extensive public outreach throughout the environmental review process for the proposed Powder River Basin (PRB) Expansion Project, beginning with SEA's Notice of Intent (published in the *Federal Register* on March 30, 1998) to prepare an environmental impact statement (EIS). Outreach continued during scope of study development and preparation of the Draft EIS and Final EIS, through meetings and consultations, site visits, use of the Surface Transportation Board's (Board's) official website, and a toll-free Environmental Hotline. In addition, SEA prepared comprehensive mailings of postcards, a newsletter, and other informational materials and provided many opportunities for agencies, Tribes, and citizens to comment on the proposed PRB Expansion Project.

While the Draft EIS included a detailed discussion of SEA's public outreach activities prior to issuance of the Draft EIS, this chapter explains SEA's additional outreach activities, and their results, between the Draft EIS and this Final EIS.

11.2 PUBLIC INVOLVEMENT APPROACH AND PROCESS

In encouraging public participation, SEA complied with pertinent Federal statutes, regulations, and executive orders to design public participation activities that broadly informed the public and agencies about the proposed project. SEA also offered the public many opportunities to raise environmental concerns at public meetings, as well as to review and comment in writing on all aspects of the Draft EIS. This allowed SEA to assess and address public concerns and determine the extent to which additional environmental analysis and mitigation measures were required for preparation of the Final EIS. Appendix O of this Final EIS contains copies of public-involvement materials mentioned here and elsewhere in this Final EIS.

11.3 SCOPING

Prior to issuing the Draft EIS, SEA engaged the public and cooperating governmental agencies in an extensive scoping process. The Draft EIS had details of the scoping process in Chapter 1, "Scoping and Public Involvement," and copies of scoping materials in Appendices B and C, "Agency Correspondence" and "Scoping and Outreach Materials." The scoping process also is summarized in the Draft EIS Executive Summary.

11.4 DRAFT AND FINAL EIS NOTIFICATION

SEA used a number of notification methods to inform the public of the proposed PRB Expansion Project and milestones in the environmental review process. These activities involved distributing the Draft EIS and Final EIS and notifying the public of their availability, informing all interested parties of the public meetings on the Draft EIS and how to participate in them, and encouraging and requesting public comment on all aspects of the Draft EIS, including the Biological Assessment, the Draft Programmatic Agreement and Identification Plan, and the proposed Forest Plan Amendments.¹ SEA also reached out to environmental justice and Tribal populations, as discussed later in this chapter. Table 11-1, "Public Notification," presents a detailed list of SEA's public outreach efforts during preparation and distribution of the Draft EIS, and continuing through issuance of the Final EIS. See also the Executive Summary.

SEA also maintained a toll-free Environmental Hotline (1-877-404-3044) for obtaining up-to-date information on SEA's environmental review and the public meetings held during the Draft EIS comment period. The Hotline also allowed callers to leave messages with questions or to request further information. SEA's environmental staff has responded promptly to all calls received and updated the Hotline throughout the environmental review process.

Table 11-1 PUBLIC NOTIFICATION	
Activity	Date
SEA mailed postcards to interested parties requesting confirmation of address and preferred format for Draft EIS.	June 2, 2000
Board issued a press release with information on the postcard mailing.	June 2, 2000
SEA distributed public service announcements to media on postcard mailing.	June 7, 2000
Board served the Draft EIS on Parties of Record, and SEA issued the Draft EIS for public review and comment.	September 27, 2000

¹ In September 2000, DM&E submitted permit applications to the Omaha and St. Paul Districts of the U.S. Army Corps of Engineers (COE) under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899. These applications were distributed for agency and public review and comment on them concurrent with SEA's issuance of the Draft EIS. Both COE Districts will render separate decision on the proposed project under its own authority.

<p>Table 11-1 PUBLIC NOTIFICATION</p>	
Activity	Date
Board issued a press release announcing the availability of the Draft EIS, information on the public meetings and how to participate in them, and project information.	September 27, 2000
Board published a notice in the <i>Federal Register</i> announcing the availability of the Draft EIS, information on the public meetings and how to participate in them, and certain project information.	September 27, 2000
Board served a Decision announcing the availability of the Draft EIS and providing notice of the public meetings.	September 27, 2000
SEA updated the Environmental Hotline with information about the Draft EIS and public meetings.	September 27, 2000
SEA distributed public service announcements to media with information about the Draft EIS and public meetings.	September 27, 2000
SEA published legal notices in newspapers with information about the Draft EIS and public meetings.	September 27, 2000
EPA published a notice in the <i>Federal Register</i> announcing availability of the Draft EIS and initiating a 92-day comment period.	October 6, 2000
Board issued a press release with reminder of and information on the first four public meetings.	October 20, 2000
SEA hosted 12 public meetings to solicit comments on the Draft EIS.	October 30 - November 16, 2000
Board issued a press release with reminder of and information on the eight remaining public meetings.	November 2, 2000
SEA updated the Environmental Hotline with reminder of and information on the eight remaining public meetings.	November 3, 2000
SEA updated the Environmental Hotline confirming that the two public meetings in Pierre, SD would be held as scheduled.	November 13, 2000
SEA hosted a Tribal meeting on the Rosebud Reservation so all interested Tribal members could provide comments on the Draft EIS.	November 28-30, 2000

Table 11-1 PUBLIC NOTIFICATION	
Activity	Date
Board served a Decision extending the close of the Draft EIS comment period from January 5, 2001 to March 6, 2001.	December 14, 2000
Board issued a press release announcing the comment period extension.	December 14, 2000
SEA mailed postcards to all interested parties announcing the comment period extension.	December 14, 2000
SEA updated the Environmental Hotline with information on the comment period extension.	December 15, 2000
SEA updated the Environmental Hotline with information on the close of the comment period and Final EIS preparation.	March 20, 2001
Board issued a press release announcing Final EIS preparation information.	May 17, 2001
SEA distributed a Project Update to all interested parties with information on the Final EIS preparation.	May 18, 2001

11.5 ENVIRONMENTAL JUSTICE POPULATIONS – IDENTIFICATION AND OUTREACH

Using Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” as a guide, SEA offered additional public participation in communities where identified environmental justice populations could experience environmental impacts as a result of the proposed project. The Executive Order encourages Federal agencies to identify and address disproportionately high and adverse impacts on minority and low-income populations with respect to human health and the environment. In conducting its environmental analysis, SEA also referred to the following documents:

- The Council on Environmental Quality’s *Environmental Justice: Guidance Under the National Environmental Policy Act*.
- Order 5610.2, *Department of Transportation’s Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations*.

- The Environmental Protection Agency's *Interim-Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses*.

Appendix D of the Draft EIS, "Environmental Justice Methodology and Outreach," discussed in detail the methodologies and analytical techniques that SEA used to identify potentially affected environmental justice populations, and the outreach plans developed for those communities after researching appropriate local media, libraries, and officials, for disseminating information. During the comment period, SEA received comments, including some from the Environmental Protection Agency, suggesting the use of a methodology for environmental justice analysis that would be more inclusive of potentially affected populations. As a result, SEA did additional environmental justice analysis, prior to issuing this Final EIS, the methodology for which is presented in Appendix N of this Final EIS, "Environmental Justice." SEA identified 24 more communities with potentially affected environmental justice populations, identified using U.S. Bureau of the Census census block group information. For populations not in previously implemented community outreach programs, SEA tailored new outreach plans, discussed in Appendix O of this Final EIS. Chapters 3 through 9 also include information on the additional environmental justice analysis.

11.6 INDIAN TRIBES – IDENTIFICATION AND OUTREACH

Early in the environmental review process, SEA initiated government-to-government consultations with Federally recognized Tribes with historic, aboriginal, or current ties to the project area that might have an interest in the proposed PRB Expansion Project. SEA identified these Tribes with the assistance of the cooperating Federal agencies, State Historic Preservation Offices, and the Bureau of Indian Affairs, through recommendations of individual Tribes, and by applying Federal regulations. In identifying potentially affected Tribes and in conducting its analysis of potential impacts to Tribal lands, SEA applied the following Acts:

- *The National Historic Preservation Act.*
- *The American Indian Religious Freedom Act.*
- *The Native American Graves Protection and Repatriation Act.*

To ensure that each Tribe would be as involved as it wished to be in the environmental review process, SEA conducted tailored outreach to each identified Tribe. SEA's outreach to Tribes is presented in Appendix D of the Draft EIS, "Environmental Justice Methodology and Outreach."

11.7 GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBES

All Tribes were invited to participate in the Draft EIS comment process by attending and speaking at public meetings and offering written comments. SEA hosted a three-day meeting on the Rosebud Reservation to afford affected and interested Tribal members an additional opportunity to ask questions and comment on the Draft EIS. At the Rosebud meeting, 70 Tribal members spoke and more attended. The Board posted the transcript of this meeting, and all of its other public-meeting transcripts, on the Board's website at <http://www.stb.dot.gov>.

During these government-to-government consultations, SEA, the participating Tribes, cooperating agencies, and organizations developed a Programmatic Agreement (PA) and Identification Plan (ID Plan), included in Appendix G of this Final EIS. The PA and ID Plan ensure opportunities for Tribal participation in efforts relating to historic and cultural resources under Section 106 of the National Historic Preservation Act.

SEA and the Tribes, working with DM&E, also developed a Memorandum of Agreement (MOA), an agreement outside ordinary regulatory processes, to ensure Tribal participation under the NEPA process in certain specific areas of particular concern to the Tribes. The MOA was also developed to obtain the written commitment of DM&E to address Tribal issues of concern.

Chapter 12 of this Final EIS, recommends that the Board's final decision include environmental conditions affording the Tribes ongoing participation in the implementation of this project if the Board gives final approval to DM&E's proposal. In addition, the PA and ID Plan, as well as the MOA, have been circulated to the Tribes for signature. Regardless of whether they choose to sign those documents, SEA is recommending that the Board impose conditions requiring DM&E to comply with these documents, which address cultural resource and other issues of concern to the Tribes.

11.8 AGENCY CONSULTATIONS

Throughout the environmental review process, SEA has extensively consulted with other agencies. As discussed throughout this Final EIS, SEA has worked with five cooperating agencies on the environmental analysis reported in the Draft EIS and the Final EIS, and has consulted with many other Federal, state, and local agencies with specific interests and expertise through correspondence, telephone calls, and agency meetings.

11.9 PROCESS FOR PUBLIC COMMENT ON THE DRAFT EIS

During the 152-day public comment period on the Draft EIS, SEA received about 8,600 comments, all of which were read, coded, and summarized. SEA established a process to sort and categorize specific, general, and form letters, petitions, and issues raised at public meetings. Then SEA identified the specific and general issues and whether they were related to specific resources. Comments included approximately 3,800 form letters and oral comments recorded at public meetings. In addition, SEA received 11 petitions containing approximately 9,550 signatures. For written comments, SEA waived its normal requirement that commenters submit an original plus ten copies, except for comment letters longer than five pages.

Commenters raised a variety of issues related to the proposed PRB Expansion Project, such as the range of alternatives, jurisdictional issues, and human and natural resources in the project area. At the conclusion of public and Tribal meetings and the comment period, SEA reviewed all comments to determine what, if any, additional analysis should be conducted in preparation of the Final EIS. Comment summaries and SEA's responses are located in Appendix B of this Final EIS. In addition, this Final EIS includes, in appropriate chapters, discussion of the additional analysis done in response to certain comments received.

11.10 PUBLIC MEETINGS

From October 30 through November 16, 2000, SEA hosted 12 public meetings on the Draft EIS in Douglas and Newcastle, Wyoming; Rapid City, Pierre, and Brookings, South Dakota; and Mankato and Rochester, Minnesota. A meeting also was held at the Rosebud Reservation. All of these meetings were scheduled to occur during the public comment period, originally running from September 27, 2000 to January 5, 2001, but extended by 60 days to close on March 6, 2001. More than 1,730 persons attended them, and approximately 500 persons spoke during the meetings.

Anticipating high interest in participation, SEA requested that speakers pre-register by calling the toll-free Environmental Hotline so that SEA could arrange meeting facilities to accommodate everyone and schedule meetings to allow as many as possible to speak. Before each meeting, attendees could view informational display boards and obtain written information about the comment process.

At the start of each meeting, SEA and representatives of some cooperating agencies presented information on the Draft EIS scope, approach, analysis, and results. A meeting facilitator called commenters to speak in the order in which they had registered. To allow as many persons as possible to speak, the facilitator enforced time limits, encouraging speakers to

submit written comments to supplement their oral comments. Additional speakers who had not registered, or who had already spoken at previous meetings, were allowed to speak, when time permitted, at some meetings. Although SEA established specific hours for the public meetings, several of them continued for several hours beyond their scheduled time to allow everyone who had registered the opportunity to speak. A court reporter transcribed all public meetings, and transcripts are posted on the Board's website, at <http://www.stb.dot.gov>.

11.11 CONCLUSION OF THE ENVIRONMENTAL REVIEW PROCESS

Issuance of this Final EIS concludes the Board's environmental review process. SEA has determined that neither a supplement to the Draft EIS nor an additional comment period on this Final EIS is warranted. While the Final EIS presents clarification and additional and modified analysis, SEA has made no substantive "changes in the proposed action," which is the criteria under CEQ regulations² for triggering a supplement or additional comment period.

Based on consideration of the Draft and Final EIS and all comments received, the Board will now determine whether to give final approval to the project, and if so, the appropriate environmental mitigation and its potential cost. DM&E may begin construction only if the Board issues a final decision approving the PRB Expansion Project. Moreover, each of the cooperating agencies would also need to issue the relevant easements and permits to DM&E, allowing construction to begin.

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² 40 CFR 1502.9)c); 1503.1(a)(1-4).